

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-20-240-F
)	
BOBBY CHRIS MAYES,)	
CHARLES GOOCH, and)	
COURTNEY WELLS,)	
)	
Defendants.)	


NOTICE TO COUNSEL

The court has this date entered an order establishing the schedule which will govern this case. Items 27 and 28 on that schedule relate to charts, summaries and demonstrative exhibits, including items asserted to be admissible wholly or in part on the basis of Rule 1006. By this notice, the court advises counsel that, at trial, it will not be sufficient under Rule 1006 (or otherwise) for the witness to say, in sponsoring a chart, summary or demonstrative aid, that he has reviewed it, or that it was prepared under his supervision, or that he assisted in its preparation. The sponsoring witness must *personally* vouch for the accuracy, *in all respects*, of the chart, summary or demonstrative aid, on the basis of his *personal* knowledge. *See, United States v. King*, 231 F.Supp.2d 872, at 970, n. 111 (W.D. Okla. 2017):

On direct examination, Lowrance gave an unqualified “yes” answer when asked whether he had assisted in preparing the government's chart, GX C55. Tr. 72. But on cross examination, he would allow only that he participated in preparing it “[i]n a sense.” Tr. 343. Further cross examination of Lowrance demonstrated that he in fact had no significant role in preparing that summary (Tr. 343–45), nor did he even have enough familiarity with the basis for that summary to enable him

to give any meaningful testimony shedding light on the reliability of the summary. This is another example of a pattern that is a serious concern to the court in this case. Admission of summary exhibits under Rule 1006 of the Federal Rules of Evidence is serious business and is, to some degree (in many instances, to a very great degree, as every trial judge knows), an act of faith. Government witnesses, as a practical matter, often get the benefit of the doubt when sponsoring summary exhibits. The court's experience in this case is, to put it mildly, unsettling.

Dated November 5, 2020.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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